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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF CONSUMER & INDUSTRY SERVICES
LANSING

August 1, 2003

CHILD PLACING AGENCY LETTER 2003-01

TO: Child Placing Agencies and Family Courts that Certify Foster Homes

SUBJECT:

- Sharing of LEIN printouts
- Retention of BFS LEIN printouts in a Foster Home/Adoption file
- Definition of "cousins" as used in PA 116
- PA 116 amendments
- Submission of foster home documents to Central Office of BFS

EFFECTIVE DATE: Immediately

GENERAL INFORMATION ON THE PROCESSING OF LICENSING RECORD CLEARANCE REQUESTS (BRS 1326)

The Bureau completes licensing record clearance requests for foster family home applicants, the adult members of the applicant's household, current licensees when there is a move or a change in licensee group, adults who move into a currently licensed foster home, and individual household members who turn 18 in a currently licensed household. In addition, the Bureau completes record clearances on applicants for adoption and the adult members of their households. When the record clearance form is received, it is date stamped. The LEIN clearance is completed and either a notation of "NO LEIN" with the date entered in the lower right hand box of the form or the form is initialed and dated by the person completing the LEIN check and two copies of the printout from the LEIN system are attached to the form. The purpose of completing the record clearance is to determine compliance with MCL 722.115(1), Children's Foster Home Rules 400.9201 (b) and (i) and 400.9202 (a) and (b) for foster home applicants and licensees or to meet the requirements of Child Placing Agency Rule 400.12605 (3)(a)(i) and (c) for adoptive applicants.

In addition to completing a LEIN clearance, BFS staff check the FIA Central Registry for a record of substantiated child abuse or neglect and the Bureau Information Tracking System to determine if the Bureau has previously licensed the individual for Children's Foster Care, Day Care, or Adult Foster Care. The information on these checks is entered in the lower left hand corner. If there is a record on the FIA Central Registry, a printout is attached to the form. (Please see CPA letter 2002-02 for additional information regarding this topic.)

SHARING OF LEIN PRINTOUTS

The printouts that indicate that someone has a criminal conviction are to be used to make a determination of compliance with the act and the rules. R400.1152 (2), (one of three rules on good moral character) states that the department "shall provide the license applicant with written notice regarding the findings as identified in subrule (1) of this rule as evidencing a lack of good moral character." This **DOES NOT** mean that a copy of the printout is to be given to the applicant/licensee. The agency is to advise the person with the conviction that there is a conviction, the title of the conviction from the LEIN printout, and that the conviction is evidence of a lack of good moral character. Subsection (3) states: "The license applicant must be afforded the opportunity to have an informal conference...to demonstrate that he or she is of good moral character."

**LEIN PRINTOUTS MAY NOT BE PHOTOCOPIED. A COPY OF THE LEIN
PRINTOUT MAY NOT BE GIVEN TO AN APPLICANT/LICENSEE.**

BFS provides the agency with two copies of the printout if there is a record of criminal convictions. One of these original printouts is to be attached to the BRS 3706 that is submitted to the Bureau with the licensing recommendation, regardless of what the recommendation is, i.e. Issuance, Denial of Issuance, or a request for administrative review.

RETENTION OF BFS LEIN PRINTOUTS IN A FOSTER HOME/ADOPTION FILE

As noted above, the purpose of the LEIN information is to assist in making a decision regarding a licensing recommendation. After the implementation of the agency's recommendation, or the Bureau's recommendation if it is different than the agency's recommendation, the LEIN printouts in the file are to be destroyed by shredding them. The certifying agency will know the recommendation has been implemented when the BRS 3706 turnaround is received showing that the license or the enrollment has been closed or there is a final decision from the Department director upholding or overturning a recommendation for disciplinary licensing action. (Denial of Issuance, Revocation, Refusal to Renew)

DEFINITION OF "COUSINS"

MCL 722.111 (o) defines the term "related" to mean "a parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, cousin, great aunt, great uncle, or stepgrandparent related by marriage, blood, or adoption."

This definition does not specify what is meant by a "cousin" for purposes of being related and not needing to be licensed. The following information is from a decision based on a recent administrative hearing.

"...the term cousin needs to be examined within the context of the other language in Section 1 (o). (*see above*) This subsection defines 'related' to include great uncles and great aunts-relationships within the second degree of consanguinity. It would be logical to apply the same limitation to cousinhood. A rational and consistent definition of 'cousin' for Section 1(o) would, therefore, include those cousins related to the licensee (emphasis added) within the second degree of consanguinity, or relationships up to and including second cousins."

Black's Law Dictionary defines "second cousins" to mean: "Persons who are related to each other by descending from the same great-grandfather or great-grandmother. The children of one's first cousins are his second cousins. These are sometimes called "first cousins once removed."

Given the above decision, the Bureau of Family Services will interpret the meaning of "cousin" in Section 1 (o) to mean second cousin, as defined in Black's Law Dictionary. Child Placing Agencies are to do the same.

PA 116 AMENDMENTS

Act 116 of the Public Acts of 1973, as amended, was revised with an effective date for the revisions of March 2003. A copy of the revisions is attached to this letter, but a summary of the revisions follows.

MCL 722.111 (1) (k): The definition of “Minor child” has added language. A youth over the age of 18 who has been adjudicated under section 2(a) of chapter XIIA of the probate code or section 1 of chapter IX of the code of the criminal procedure may be placed in a child caring institution, a foster family home, or a foster family group home. The placement of the youth must be within the licensed capacity of the institution or the foster home, however, the placement of the youth is not counted as a minor child when determining how many placements there can be of individuals who are over the age of 17. They would not be in the count of children in determining compliance with R400.9401(1).

This does not alter the responsibility of a child placing agency to make a decision regarding placement specifications as required in R400.12310(4) or R400.12313(4). The agency could make the determination that it is not appropriate for a specific foster family to take youth who are over 18 who have been adjudicated by the court as delinquent.

MCL 722.119: There are four separate provisions in this section.

Sections 1 prohibits a child placing agency from having a staff member present who has:

- A conviction for child abuse or neglect, regardless of how old the conviction is.
- A conviction of a felony involving harm or threatened harm to an individual within the 10 years preceding the person's date of hire.

Section 2 prohibits the child placing agency from having a volunteer have unsupervised contact with children who are in care for the same reasons noted above.

Section 3 requires the agency to have documentation that all staff and all volunteers who have unsupervised contact with children in care have had a record check completed to determine if the person is on central registry for child abuse or neglect. The individual has to request the record check from the local office of the Family Independence Agency and provide it to the agency. All current employees must have the record check completed by the time of the next agency licensing renewal after 3/2003.

Section 4 requires the child placing agency to have a specific policy regarding the supervision of volunteers. The policy must address how the agency handles volunteers who are parents of children receiving care from the agency.

Sections 1 and 2 do not require the agency to complete police checks. Each agency will have to determine how to obtain the necessary information regarding criminal convictions. BFS **will not** do LEIN checks on employees who are not the chief administrator of the agency.

SUBMISSION OF FOSTER HOME DOCUMENTS TO CENTRAL OFFICE OF BFS

All BRS 3706, (Children's Foster Home Licensing Transaction Record), transactions are to continue being sent to Central Office to the Licensing Division of the Bureau of Family Services. (See address at bottom of page.) A supervisor must sign all BRS 3706 documents.

Reports will no longer be required for all transactions. Please refer to the attached chart regarding the reports and documents that must continue to be submitted with a request for a licensing transaction.

NOTE: Changes can be made in any field on the BRS 3706, including the address and licensee group members, on an enrolled foster home without doing a new enrollment.

All BRS 259, (Special Evaluation Record) forms for original complaints and closed complaints are to be submitted to Central Office to the Complaint Unit of the Bureau of Family Services. The BRS 259 turnaround is to be used to close the special investigation. Please be sure to enter the date the investigation was closed on the form. The special investigation report no longer has to be sent with the BRS 259 unless the recommendation is for disciplinary licensing action. Remember that a license is not to be renewed or closed when there is an open special investigation, although the application must still be provided to the applicant prior to the expiration date. (See CPA letter 2002-01.)

NOTE: This policy change regarding which reports have to be submitted to Lansing does not alter any requirement in the rules. All required reports are still to be completed prior to making a licensing recommendation.

If there are questions regarding this letter, please contact your Child Welfare Licensing Consultant or Patricia Riviera at (517) 241-0979.

Sincerely,

Miriam E.J. Bullock, Director
Division of Child Welfare Licensing
Bureau of Family Services

Attachments

BRS 3706-TRANSACTION PROCESSING

ACTION	DOCUMENTS TO BE SUBMITTED
Enrollment	BRS 3889, Application, BRS 1326, Clearance form on all adult members of the household
Original License (Code 2)	White copy of computer generated BRS 3706, white copy of BRS 1326 with all attachments on all adult members of household, initial home study narrative, administrative review summary, (as needed)
Renewal License (Code 3)	White copy of computer generated BRS 3706.
Change in capacity or terms of license (no change in license type) (Code 4)	White copy of BRS 3706
Change in license status from regular to provisional (Code 4)	White copy of BRS 3706, copy of CAP signed by agency and foster parent(s)
Change in capacity (family home to group home or group home to family home)(Codes 13 & 2)	Enrolled BRS 3706 for new license, BRS 3706 for license to be closed, BRS 1326 for each licensee completed in previous 12 months, zoning documents as needed
Death of 1 licensee in a 2 licensee household (Code 4)	White copy of BRS with name of deceased person marked out in red, copy of death certificate or obituary from newspaper
Transfer of foster home from one CPA to another CPA (Code 5)	White copy of BRS 3706 signed by releasing agency supervisor and accepting agency supervisor
Reopen (Code 6) is to be used to reopen an enrollment when the license has not been opened	BRS 3889, Application, BRS 1326, Clearance form on all adult members of the household
Denial of issuance (Code 11)	White copy of BRS 3706, BRS 3889, BRS 1326 for each adult in home, narrative that documents reason for denial, supporting documentation
Withdrawal of enrollment Lack of response (Code 8)	White copy of BRS 3706 and copies of letters to licensee (may not be used if rule violations have been found)
Withdrawal of enrollment No longer interested (Code 9)	White copy of BRS 3706 and copy of letter from licensee asking to withdraw (may not be used if rule violations have been found)
Closure because of death (Code 10 or 15)	White copy of BRS 3706, copy of death certificate or obituary from newspaper

Licensee moves to a new address. No longer wishes to be licensed. (Code 14)	White copy of BRS 3706 and written request from licensee to close license or copy of letter to licensee confirming move and request to close
Licensee moves to a new address. Wants to be licensed at new address. (Code 14 & 2)	White copy of BRS 3706 at old address closing that license number, white copy of enrolled BRS 3706 at new address, BRS 1326 for each licensee completed in previous 12 months
Close active license due to a failure of licensee to respond to CPA (Code 12)	White copy of BRS 3706 and copies of at least 3 letters to licensee attempting to contact (may not be used if rule violations have been found)
Close license at request of licensee (Code 13)	White copy of BRS 3706 and copy of letter from licensee requesting closure or returned license (may not be used if rule violations have been found)
Close because family has adopted (Code 19)	White copy of BRS 3706 and copy of letter confirming closure due to adoption
Licensee group changes- either adding or deleting name from a license (Code 20 & 2)	White copy of BRS 3706 closing old license, white copy of enrolled BRS 3706 with new group member(s), BRS 1326 for each licensee in new group completed within the previous 12 months
Refusal to renew or revocation (Code 17 or 18)	White copy of BRS 3706, renewal application (if appropriate) and narrative report with supporting documents to pursue disciplinary licensing action

Revised 07/28/03